

SENATE BILL 1122
By Jackson

AN ACT to amend Tennessee Code Annotated, Title 9, Chapter 8, Part 3 and Title 29, Chapter 20, relative to governmental liability limits and the payment of certain claims.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 9, Chapter 8, Part 3, is amended by adding the following as a new section:

Section 9-8-311.

(a) Notwithstanding the limits set out in § 9-8-307(e), the commission is expressly authorized to make a payment in compensation for bodily injury or death to a person in excess of liability limits based upon the state's negligent care, custody and control if the injured person:

- (1) Is profoundly retarded;
- (2) Has been in the state's care, custody and control for more than thirty (30) years;
- (3) While in the state's care, custody and control contracted a communicable disease; and
- (4) The disease was contracted directly or indirectly, in whole or in part by the negligent or intentional act of a state employee and the

negligent failure of the state to provide a reasonable and expected standard of safety and care to the person while in state custody and control.

(b) Any payment or disbursement made by the state pursuant to this section shall be deemed an expenditure of money for a lawful state purpose and is declared to be an expenditure of public money, pursuant to appropriations made by law in compliance with Article II, Section 24, of the Constitution of Tennessee. No action may be maintained against any claims commissioner, or other officer or employee of the state, and no judgment may be entered against any such person, upon any allegation that an expenditure of funds of the state pursuant to this section was an ultra vires act, or that it exceeded the authority or discretion of any person in such persons' capacity as a member of the claims commission.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.